

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RUTH MOSSINGER, :
: :
Plaintiff, :
: :
v. : Civ. No. 20-1526-LPS
: :
STATE OF DELAWARE DIVISION OF :
CHILD SUPPORT SERVICES, :
: :
Defendant. :
:

MEMORANDUM ORDER

At Wilmington this 17th day of August, 2021;

Having considered Plaintiff's combined response to the Order to Show Cause why the case should not be dismissed for failure to serve Defendant and Plaintiff's motion for reconsideration to be found indigent (D.I. 7);

IT IS HEREBY ORDERED that:

The motion for reconsideration (D.I. 7) is GRANTED to the extent that as of this date Plaintiff is given leave to proceed *in forma pauperis* under 28 U.S.C. § 1915. Also, the Court has identified cognizable and non-frivolous claims within the meaning of 28 U.S.C. § 1915(e)(2)(b).

IT IS FURTHER ORDERED that:

1. Pursuant to Fed. R. Civ. P. 4(c)(3) and (d)(1), Plaintiff shall complete and return to the Clerk of Court original "U.S. Marshal-285" forms for Defendant, as well as for the Attorney General of the State of Delaware, 820 N. FRENCH STREET, WILMINGTON, DELAWARE, 19801, pursuant to Del. Code Ann. tit. 10 § 3103(c). Additionally, Plaintiff shall provide the Court with copies of the complaint (D.I. 1) for service upon Defendant and the Attorney General of the State of Delaware. Plaintiff is notified that the United States Marshal Service ("USMS") will not serve the complaint until the "U.S. Marshal 285" forms and copies of the complaint have been

received by the Clerk of Court. Failure to provide the "U.S. Marshal 285" forms for Defendant and the Attorney General within 90 days of this order may result in the complaint being dismissed or defendant(s) being dismissed pursuant to Federal Rule of Civil Procedure 4(m).

2. Upon receipt of the form(s) required by paragraph 1 above, the USMS shall forthwith serve a copy of the complaint (D.I. 1), this order, a "Notice of Lawsuit" form, the filing fee order(s), and a "Return of Waiver" form upon the defendant(s) identified in the 285 forms. All costs of service shall be advanced by the United States.

3. For each defendant who does not return an executed "Waiver of Service of Summons" form within thirty (30) days from the date that the "Notice of Lawsuit" and "Return of Waiver" forms were sent, plaintiff must complete a summons and submit the completed summons to the Clerk of Court for issuance. Plaintiff shall also provide to the Clerk of Court completed, original "U.S. Marshal-285" form(s) as set forth in paragraph 1 and copies of the complaint for service. Upon issuance of the summons by the Clerk of Court, the U.S. Marshal shall personally serve said defendant(s) and said defendant(s) shall be required to bear the costs related to such service, unless good cause is shown for failure to sign and return the waiver pursuant to Fed. R. Civ. P. 4(d)(1) and (2).

4. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within sixty (60) days from the date upon which the complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.



HONORABLE LEONARD P. STARK
UNITED STATES DISTRICT JUDGE